

RECEIVED

JUL 18 1997

LAW OFFICES  
**COHN AND MARKS**

RECEIVED  
OFFICE OF THE SECRETARY  
OF THE COMMISSION

JOEL H. LEVY  
ROBERT B. JACOBI  
ROY R. RUSSO  
RONALD A. SIEGEL  
LAWRENCE N. COHN  
RICHARD A. HELMICK  
WAYNE COY, JR.  
MARK L. PELESH  
J. BRIAN DE BOICE  
EDWARD N. LEAVY

SUSAN V. SACHS  
JOHN R. PRZYPYSZNY  
A. SHEBA CHACKO  
KEVIN M. GOLDBERG  
MICHAEL A. McVICKER

SHARON H. BOB, PH.D.  
HIGHER EDUCATION  
SPECIALIST ON  
POLICY AND REGULATION

SUITE 600  
1333 NEW HAMPSHIRE AVENUE, N.W.  
WASHINGTON, D.C. 20036-1573

TELEPHONE (202) 293-3860  
FACSIMILE (202) 293-4827  
HOMEPAGE WWW.COHNMARKS.COM

OF COUNSEL  
MARCUS COHN  
LEONARD H. MARKS  
STANLEY S. NEUSTADT  
RICHARD M. SCHMIDT, JR.

DIRECT DIAL: (202) 452-4831  
INTERNET ADDRESS: [rm@cohnmarks.com](mailto:rm@cohnmarks.com)

July 18, 1997

DOCKET FILE COPY ORIGINAL

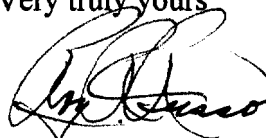
Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Re: **MM Docket No. 87-268**

Dear Mr. Caton

Transmitted herewith on behalf of Virginia Broadcasting Corp., licensee of Television Broadcast Station WVIR-TV, Charlottesville, Virginia, are an original and four copies of its opposition to a petition for reconsideration filed by Trinity Christian Center in the above-captioned proceeding relating to the Commission's proposed Table of Allotments for digital television (DTV).

Very truly yours



Roy R. Russo

Enclosure

cc w/encl.: Colby M. May, Esq.

No. of Copies rec'd 024  
List A B C D E



RECEIVED

JUL 18 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BEFORE THE

# Federal Communications Commission

In the Matter of ) MM Docket No. 87-268  
)  
Advanced Television Systems )  
and Their Impact Upon the Existing )  
Television Broadcast Service )  
)  
To: The Commission )

## **OPPOSITION OF VIRGINIA BROADCASTING CORP. TO TRINITY CHRISTIAN CENTER PETITION FOR RECONSIDERATION**

Virginia Broadcasting Corp., licensee of Television Broadcast Station WVIR-TV, Charlottesville, Virginia ("Virginia" or "WVIR-TV"), by its attorneys, submits this opposition to the Petition for Reconsideration in the above-captioned proceeding, filed on June 13, 1997, by the Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network ("TBN"). In addition to supporting the contemporaneously-filed Petition for Reconsideration of Sinclair Broadcast Group, Inc., TBN requests assignment of different DTV channels for various full power stations (including WVIR-TV), "in order to permit the continued operation" of many of its translator facilities.

1. TBN notes that it is the licensee (and permittee) of some 222 translator stations throughout the United States. The list appended to TBN's petition lists 47 such translator facilities seeking "protection" from full-power station DTV channel assignments, and proposes 56 changes in the assignments made by the Commission in the Sixth Report and Order in this docket. The changes proposed by TBN are unsupported and unjustified.

2. The Engineering Statement attached to the TBN Petition for Reconsideration notes that the alternative channel assignments it proposes are derived from the MSTV/NAB computer study dated May 28, 1997. Significantly, TBN confesses that "based on its own studies" (not supplied), the alternative channels will not "displace" any authorized LPTV or TV translator facility. TBN admittedly was not able to verify the assumptions it used, but assures the Commission nevertheless that its proposed "selections" were made "to maintain the highest level of LPTV/translator service".

3. In the text of its Petition (at page 2), TBN asserts, without any support even in its own Engineering Statement, that the proposed substitutions will continue the service replication "scheme" specified in the Sixth Report and Order. It asserts that its proposed substitutions "will not increase instances of interference"(this is said to be "explained" in the Engineering Statement", but it is not) and states that "it is believed" that the proposed substitutions would still allow the current full power NTSC facilities to locate their DTV operations within the three mile radius of their current sites. Significantly, however, TBN does not even attempt to show what, if any, study it made of how the problem it cites for its translator stations might have been addressed by changes in the *translator* station channels -- rather than changing the Commission's DTV channel assignments for *full service* TV stations.

4. Nowhere does TBN acknowledge the "ripple effect" (or "chain reaction") which proposals such as this and many of the other 219 petitions for reconsideration will generate. The Commission's task was, as TBN acknowledges (but then ignores), "enormous" and "extremely difficult". But what TBN really seeks to upset is the *Commission's* first priority -- the replication

during the NTSC-DTV transition of the full-power television service in the United States, in favor of its *own* priority, the preservation of LPTV/translator service which it acknowledges has been from the start and remains a “secondary” service.

5. Moreover, TBN casually ignores the impact of the proposed reassignments of DTV channels on the licensees it would adversely affect. For Station WVIR-TV in Charlottesville, the Commission’s assigned DTV Channel 32 is proposed to be changed to DTV Channel 43. (No mention is made of the fact that adjacent DTV Channel 44 is assigned to nearby Richmond, Virginia.) And no consideration is given by TBN to the increased expense to WVIR-TV of operating -- during the transition -- on a higher UHF frequency. Most importantly, it is naive in the extreme for TBN to expect that its proposed changes can be accomplished in isolation, without any residual effects on and/or from changes proposed by other petitioners. This is particularly the case in the much-crowded Northeast Corridor, which the Commission and MSTV/NAB both have noted represents one of the “tightest” allotment challenges in the country.

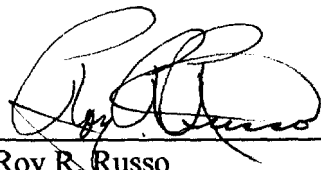
6. Finally, although TBN was considerate enough to serve the TV stations *directly* affected by its proposed DTV assignment changes, the process by which *indirect* effects may occur from the various petitions for reconsideration cry out for correction from a procedural point of view. In many cases, there is no procedural protection for adversely affected licensees, since the proceeding is entirely too complex to permit the usual petition for rule making, Notice of Proposed Rule Making, etc., which ordinarily would attend proposed changes in TV channel allotments. This defect can be cured by dismissal or denial of petitions suggesting particular changes in specific channel assignments, with the remedy, for those who perceive themselves to be aggrieved by particular allotments, of permission to file *specific* rule making petitions leading to a more complete

public disclosure and comment process than can attend the 220 petitions for reconsideration which were clearly intended to elicit additional comment on the *general* propositions adopted by the Commission in the Sixth Report and Order. Even MSTV/NAB, whose engineering study is cited by TBN and indeed represents the foundation of TBN's petition, has suggested an industry coordinating process to address changes in the DTV allotments as may be needed and warranted in future cases, rather than a wholesale revision of the assignments set forth in the Sixth Report and Order based on 220 detailed and inevitably overlapping petitions for reconsideration.

Based on the foregoing opposition, Virginia Broadcasting Corp. respectfully requests that the Commission dismiss or deny the Trinity Christian Center Petition for Reconsideration, in its entirety or, at least, insofar as it requests a change in the DTV allotment for WVIR-TV.

Respectfully submitted

VIRGINIA BROADCASTING CORP.

By   
Roy R. Russo


COHN AND MARKS  
Suite 600  
1333 New Hampshire Avenue, N.W.  
Washington, DC 20036  
(202) 293-3860  
Its Attorneys

July 18, 1997

CERTIFICATE OF SERVICE

I, Jovana M. Cooke, a secretary in the law firm of Cohn and Marks, hereby certify that I have, this 18th day of July, 1997, sent by U.S. mail, postage prepaid, or by hand delivery, as indicated, the foregoing **OPPOSITION OF VIRGINIA BROADCASTING CORP. TO TRINITY CHRISTIAN CENTER PETITION FOR RECONSIDERATION** to the following:

Colby M. May, Esq.  
Suite 609  
1000 Thomas Jefferson Street, N.W.  
Washington, D.C. 20007

  
Jovana M. Cooke